

RELIEF OF PERSONS IN MILITARY SERVICE OF UNITED STATES  
DURING WAR EMERGENCY FROM CLAIMS FOR OVERPAYMENT  
NOT INVOLVING FRAUD

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JANUARY 30, 1925.—Committed to the Committee of the Whole House on the  
state of the Union and ordered to be printed

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Mr. McSWAIN, from the Committee on Military Affairs, submitted  
the following

REPORT

[To accompany H. R. 11923]

The Committee on Military Affairs, to which was referred the bill (H. R. 11923) to relieve persons in the military service of the United States during the war emergency period from claims for overpayment at that time not involving fraud, having considered the same, report favorably thereon with recommendation that it do pass with the following amendments:

Line 4, strike out the word "made" and insert in lieu thereof the word "received."

Lines 4 and 5, strike out the phrase "by a disbursing officer."

In view of the fact that more than 200,000 emergency officers served in the Army during the World War, many of whom were inexperienced in the preparation of pay vouchers, and not fully acquainted with Army regulations and laws relating to the Military Establishment, your committee is of the opinion that where mistakes of fact or of law were made in good faith, and without any intention to defraud the Government, then the matter should end, and especially since more than six years have passed since the armistice was signed.

The inclosed reports from the Secretary of War upon the measure covered by this bill are printed herewith for the information of the House.

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JANUARY 17, 1924.

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,  
*House of Representatives.*

SIR: The act of April 16, 1918, provided for commutation of quarters, heat, and light, for a wife and child or dependent parent. In accordance with this act an officer's certificate was prepared, approved by the Comptroller General, and

accepted by the General Accounting Office, and all vouchers claiming commutation on account of a dependent parent so supported by this certificate were passed as settled by the General Accounting Office.

On April 6, 1922, the Comptroller General of the United States ruled in effect that the certificate was not sufficient to establish dependency and required in lieu thereof an affidavit to be executed by the dependent parent supported by the affidavit of at least one disinterested party having knowledge of the facts. No form was prescribed for this affidavit, it being left to the discretion of the officers concerned.

On June 10, 1922, the pay readjustment act was passed, which abolished the laws authorizing payment of commutation of quarters, heat, and light, and in their stead authorized the payment of rental and subsistence allowance.

On July 22, 1922, the Comptroller General issued an approved form of affidavit to be executed by the dependent mother and a disinterested party. This was the first effort made by the Comptroller General, aside from argumentative statements made in various and sundry decisions, since the passage of the act of April 16, 1918, to in any way prescribe what evidence would be required of an officer to establish dependency.

On January 20, 1923, the Comptroller General in a letter to the Secretary of War inclosed approved forms of a certificate of an officer claiming subsistence and rental allowance and certificate of the commanding officer as to the availability of quarters and also affidavit of the dependent mother and stated that these new forms would be used commencing with payments for the month of February, 1923.

On June 22, 1923, the Comptroller General ruled that based upon experiences derived from the use of the forms issued on January 20, 1923, a new form of affidavit was necessary in order to furnish him all of the information which he required. This new and latest affidavit is the one which is now in effect.

The above constantly changing requirements of the Comptroller General were without delay published to the service, and every effort was made to comply fully with the requirements in force at the time of payment of any account involving dependency.

Payments made upon certificates required by the Comptroller General at the time of such payments and which have been passed by the General Accounting Office to the credit of the finance officers making such payments are now being reviewed and charges raised against individual officers on account of commutation of quarters, heat, and light from April 16, 1918, to June 30, 1922, under the act of April 16, 1918, and of rental and subsistence allowances on account of dependents since July 1, 1922, under the provisions of the act of June 10, 1922. Under this procedure charges have been raised in amounts varying as high as \$2,500, and the officers against whom such charges have been raised have been directed by the Comptroller General to make refundment within 30 days from the date of his notification. The collection of such charges will not only work a hardship upon the officers concerned, who it is believed acted in good faith in submitting the various certificates and affidavits required by the Comptroller General, but is subversive to the best interests of the service. From every consideration it is contended that payments made in good faith upon certificates and affidavits executed in good faith should not now be questioned, and I submit the following draft of legislation with the recommendation that the same be enacted into law at an early date:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That payment of commutation of quarters, heat, and light under the act approved April 16, 1918 (Fortieth Statutes, page 530), and of rental and subsistence allowances under sections 4, 5, and 6 of the act of June 10, 1922 (Forty-second Statutes, page 627), made in good faith by disbursing officers prior to June 22, 1923, on account of dependents, and without fraud on the part of the payee as determined by the Secretary of War be, and the same are hereby, validated: Provided, That any amount heretofore collected on account of payments so validated shall be refunded."*

The Director of the Budget has been consulted and states that the proposed legislation is not in conflict with the financial policy of the President.

A similar communication has been addressed to the chairman Committee on Military Affairs, United States Senate.

Respectfully,

JOHN W. WEEKS, Secretary of War.

WAR DEPARTMENT,  
Washington, March 4, 1924.

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,  
*United States Senate.*

SIR: Under the act of March 2, 1899 (30 Stat. 981), as amended by the act of March 2, 1901 (31 Stat. 896), and further amended by the act of October 6, 1917 (40 Stat. 384), officers and enlisted men of the Army on active duty and permanent civilian employees of the War Department on duty outside the continental limits of the United States were permitted to make allotments during the period of the World War for the support of their wives, children, or dependent relatives, or for any other purpose except that of obtaining an advance on their pay. These latter allotments were designated as class E allotments.

Under the law the disbursing officer who in good faith paid allotments to the designated allottees is not held responsible for overpayments resulting from lack of notice of discontinuance of allotments or by the failure to make deductions covering same on pay roll or pay vouchers. However, this does not relieve the War Department from the duty of collecting erroneous payments and efforts have been and are still being made to recover said overpayments from the allottees by writing letters explaining the circumstances under which overpayments occurred and requesting refundment by certified check, bank draft, or money order. The general plea of the allottee is that the allotment received was accepted in good faith, has long since been spent, and that the allottee is unable to make refundment although he or she might do so at some later date when his or her pecuniary condition will so permit. In many cases dependents and allottees are making refundments at as low a rate as \$1 per month, they not being able to pay more.

The act of August 9, 1921 (42 Stat. 153), relieved the United States Veterans Bureau from making further recovery of overpaid class A and class B allotment covering family allowances under the war risk insurance act, but the provisions of said act do not extend to the War Department with reference to overpaid class E allotments. Numerous replies have been received to letters requesting refundment of overpaid class E allotments in which it is stated that the writers have been notified by the United States Veterans' Bureau that no more refundments would be required for overpaid allotments—they failing to differentiate between allotments on account of family allowances under the war risk insurance act and allotments made through the Army allotment system under the act of October 6, 1917, *supra*.

Action toward making collections of these allotments overpaid has now been taken to a degree which shows that, on the whole, the amounts which may hereafter be received will be inconsiderable and will be at a cost not commensurate with the returns. From a humane standpoint, as well as in fairness and equity to the relatives and dependents of ex-service men, it would seem that the same relief should be extended by Congress with reference to overpaid class E allotments as has been granted in connection with overpaid class A and class B allotments, and I submit the following draft of legislation to accomplish this purpose, with the recommendation that the same be enacted into law at an early date:

"That so much of section 210 of the war risk insurance act, as amended by the act of August 9, 1921 (42 Stat. 153), as precludes the recovery of an award of allotment or allowance, or both, paid to, or on behalf of, a person designated as beneficiary of an allotment under the war risk insurance act prior to August 9, 1921, shall hereafter be applicable to allotments paid prior to August 9, 1921, to beneficiaries designated under the Army allotment system by any person who served in the Army."

The Director of the Budget has been consulted and states that the proposed legislation is not in conflict with the financial policy of the President.

A similar communication has been addressed to the chairman, Committee on Military Affairs, House of Representatives.

Respectfully,

JOHN W. WEEKS, *Secretary of War.*

WAR DEPARTMENT,  
Washington, January 17, 1925.

Hon. A. PIATT ANDREW,  
*House of Representatives.*

MY DEAR MR. ANDREW: Careful consideration has been given to your letter of January 8, 1925, the receipt of which has heretofore been acknowledged, in which you make reference to claims presented to men who served during the war for the refund of overpayments made to them during that period, and inquire as to the attitude of this department toward legislation looking to the relief of such military personnel from claims of this kind.

I assume that the claims to which you refer fall chiefly under one or other of the following three classes:

(a) Claims against enlisted men for overpayments to them arising chiefly through failure to deduct allotments made by them on the monthly pay roll of the organization to which they belonged.

(b) Claims against officers for similar overpayments to them.

(c) Claims against officers and enlisted men for alleged overpayments of allowances to or on account of their dependents, such payments having been made in good faith and in accordance with the procedure in effect at the time.

With reference to the first group, and particularly overpayments due to failure to deduct allotments, I feel that no further action should be taken by the War Department for the purpose of making such collections. The soldier was paid on rolls prepared by the proper officer of his organization and had no responsibility in connection with the preparation of these rolls. If the amount to be deducted for an allotment was not entered on the roll it was not the fault of the soldier. In general these amounts are small and the proportion of them which might be recovered by active effort would also be small. The cost of such effort would in all probability exceed the amount which would be recovered. Having in mind that these overpayments to enlisted men were in no wise due to the soldier's own action and that the cost of collecting them would in any case be prohibitive, I recommend to Congress, in identical letters addressed to the chairmen of the Military Affairs Committees of the Senate and House under date of March 4, 1924, of which I inclose a copy, legislation which would relieve the War Department from taking any further action on such claims. At the same time I gave instructions that such further action should be suspended pending action by Congress on the legislation recommended. No action has yet been taken by Congress on the legislation which was proposed, and no further action by this department toward making the collections is contemplated at this time.

In respect to the second group, the allotment by an officer was made by him on his own initiative, and in making such allotment the officer agreed that he would deduct the amount from his individual pay voucher which he made out for himself and presented to a disbursing officer for payment. It must be assumed that officers who took this action and thus provided for their dependents could not have failed to have knowledge of such allotments at the time they made out their pay vouchers, and in general when they failed to make the deductions on their vouchers they did so with the full knowledge that it would result in a double payment.

I can conceive of an officer inadvertently omitting a single deduction in some possible situations, but when he failed entirely to make any deduction for long periods I must conclude that he knew what would be the effect of his action. There are cases of record where allotments have been paid for as much as 24 successive months to the dependents of officers who during that period made not a single deduction from their monthly pay to cover such allotments made by them. Clearly, officers who did this should be required to make good the overpayment which it can not be doubted was obtained through fraudulent intent. I am not in favor of legislation which would relieve officers from their responsibility to the Government in this class of cases.

In respect to the third group, many payments were made in good faith to and on account of dependents of officers and enlisted men on showing of facts honestly made in accordance with the regulations existing at the time. Since the passage of the joint pay act on June 10, 1922, and on the basis of information required by him in connection with the auditing of accounts under that act, the Comptroller General has reopened the accounts in respect to many of these dependency payments made during the war emergency period, and has set up charges against and endeavored to make collection from many officers on account of such alleged overpayments. In such cases this department has persistently contended that it was improper for the Comptroller General to reopen these accounts and raise



these charges unless there was evidence that the payments had been made in bad faith or through the practice of fraud upon the Government. In many cases in which such charges have been raised this department holds that not only was there no fraud or bad faith involved in the original payment but such payment was in fact a proper payment and involved no overpayment.

In a letter addressed to the chairman of the Military Affairs Committee of the House of Representatives under date of January 17, 1924, of which I inclose a copy, I recommended legislation intended to relieve this class of cases. Final action has not yet been taken upon this recommendation, and in the meantime I am consistently refusing to follow the request of the Comptroller General to withhold the current pay of officers now in the Army for the purpose of making collections of these claims asserted by him. He has, however, nevertheless proceeded directly against many such officers in seeking the refund of such alleged overpayments, and I have no doubt that this class comprises some of the complaints which have come to you and to which you refer.

As you will see from the foregoing and the inclosures herewith, this department has already suggested relief legislation covering some, if not all, of the cases which have been brought to your attention. The position of the War Department is, generally, that at this time it is neither proper nor in the public interest to disturb payments made to military personnel during the war emergency period, except in case of manifest bad faith or where actual fraud was practiced upon the Government. If, therefore, the measures already suggested by this department seem to you insufficient to cover all the meritorious cases which have been brought to your attention and to which you refer, this department would be entirely favorable to some general provision which would cover such cases, which might be drafted somewhat upon the following lines:

"That all payments of pay or allowances to persons in the military service of the United States made in good faith by a disbursing officer and without fraud on the part of the payee during the war emergency period extending from April 6, 1917, to November 18, 1921, are hereby validated, notwithstanding any overpayments which may have been subsequently discovered therein, and no claim or suit on account of any such overpayment shall be instituted on behalf of the United States, and all claims and suits heretofore instituted on account of such alleged overpayments and not heretofore paid or finally adjudicated by a court of competent jurisdiction are hereby barred as of the dates upon which they were respectively instituted, and no recovery of judgment shall be made or adjudged thereon."

Sincerely yours,

JOHN W. WEEKS, *Secretary of War.*

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The American Medical Association is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public health. It was founded in 1847 and has since that time been the leading organization of the medical profession in the United States. The Association is composed of more than 50,000 members, who are organized into local, state, and national societies. The Association's primary concern is the advancement of the medical profession and the improvement of the public health. It does this by publishing the Journal of the American Medical Association, which is one of the most important medical journals in the world. The Association also sponsors a number of other publications, including the American Medical Review, the American Medical News, and the American Medical Journal. In addition, the Association is active in many other ways, including the holding of annual conventions, the publication of books and pamphlets, and the support of medical research. The Association's efforts have been instrumental in the development of the medical profession and the improvement of the public health in the United States.